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INTERGOVERNMENTAL NEGOTIATING COMMITTEE
FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE
Ninth session
Geneva, 7-18 February 1994
Agenda item 7

ADOPTION OF THE REPORT OF THE COMMITTEE ON ITS NINTH SESSION HELD AT GENEVA

Draft report

Rapporteur: Maciej SADOWSKI (Poland)

CONTENTS

		Paragraphs	Page
VI.	PROCEDURAL, INSTITUTIONAL AND LEGAL MATTERS		
	B. Designation of a permanent secretariat and arrangements for its functioning	1 - 9	2 - 3
	1. Proceedings		1 - 42
	2. Conclusions		5 - 93
VIII.	REVIEW OF THE ACTIVITIES OF THE INTERIM SECRETARIAT, INCLUDING REVIEW OF EXTRABUDGETARY FUNDS	10 - 16	3 - 5
	1. Proceedings		10 - 133 - 4
	2. Conclusions		14 - 164 - 5

VI. PROCEDURAL, INSTITUTIONAL AND LEGAL MATTERS

B. Designation of a permanent secretariat and arrangements for its functioning

1. Proceedings

1. The Committee considered this item at its 3rd and 4th plenary meetings on 15 and 16 February, on the basis of a note by the interim secretariat (A/AC.237/53) which was introduced by the Executive Secretary at the 3rd plenary meeting. At the same meeting, the representative of the World Meteorological Organization (WMO) reiterated the offer of the Secretary-General of that Organization to provide accommodation to the permanent secretariat of the Convention, on terms and conditions to be negotiated, in the new WMO building projected for completion in 1997.

2. Statements were made on this item by representatives of 19 States, including one on behalf of the European Economic Community and its member States. These statements underlined different criteria put forward in the interim secretariat's note and expressed preferences with respect to the institutional options discussed therein, notably as regards the location of the permanent secretariat within the institutional framework of an existing organization. There was general support for a cost-effective arrangement for the permanent secretariat, one which encouraged collaboration with other related secretariats and consequent economies in operating costs, possibly including co-location with some such secretariats. The possibility of placing different conventions related to sustainable development, together with their secretariats, under a single institutional umbrella, was regarded as an issue to be explored over the long term. Several representatives commented on financial aspects of the arrangements for the permanent secretariat, stressing among other factors the need for a sound financial base for its operation. Many representatives highlighted the need for the independence of the permanent secretariat and for appropriate administrative autonomy and flexibility, while recognizing that these aims could be achieved through a negotiated arrangement with a host organization.

3. A number of representatives commented on the need to assess the advantages of different physical locations for the permanent secretariat, including the different United Nations centres. The delegation of Uruguay formally conveyed the offer of his country to host the permanent secretariat. The representative of Switzerland referred to the contribution being made by her country to the accommodation of the interim secretariat, together with a number of other convention secretariats, and to a plan to co-locate such secretariats in a new facility at some time in the future.

4. The Executive Secretary replied to questions posed during the discussion on this item and clarified certain issues raised therein.

2. Conclusions

5. The Committee took note with appreciation of the analysis of institutional options for the permanent secretariat and of financial and staffing matters, contained in document A/AC.237/53.

6. It endorsed the conclusion that the interim secretariat would need to continue to function after the first session of the Conference of the Parties (COP 1) during a transitional period ending on 31 December 1995 and that the permanent secretariat should thus start operations with effect from 1 January 1996. The Committee recommended that the permanent secretariat be built on the foundations of the interim secretariat, in the interest of continuity.

7. Having reviewed the institutional options outlined in the document (Section IV), the Committee decided to examine all these options further at its tenth session.

8. It requested the interim secretariat to provide additional information to the Committee at its tenth session to support this examination, with particular reference to the possibility of negotiating an arrangement to place the permanent secretariat, at least initially, within a host organization. In this context, the secretariat should explore possible arrangements with the United Nations Secretariat, the United Nations Environment Programme (UNEP) and the United Nations Development Programme (UNDP), including relevant financial, administrative and staffing provisions. It should also ascertain the content of the offer of accommodation from WMO. The secretariat should provide summary information on relevant precedents with respect to other conventions, whether operating independently or within the framework of a host organization. To the extent possible, the secretariat's report should provide indications of the relative costs and benefits of different options.

9. The Committee took note of the interest of Uruguay in hosting the permanent secretariat and of the facilities provided by Switzerland to the interim secretariat. The Committee decided to consider the physical location of the permanent secretariat in the light of its further review of possible institutional arrangements.

VIII. REVIEW OF ACTIVITIES OF THE INTERIM SECRETARIAT, INCLUDING REVIEW OF EXTRABUDGETARY FUNDS

1. Proceedings

10. At the 3rd plenary meeting, on 15 February, the Executive Secretary introduced a note containing information on current activities of the interim secretariat, administrative and budgetary matters, including staffing, and the need for contributions to the two extrabudgetary funds established by General Assembly resolution 45/212, namely the special voluntary fund for the participation of developing countries in the sessions of the Committee (para. 10), and the trust fund for the negotiating process (para. 20). In doing so, he updated information provided in that note, in particular with respect to contributions to both funds.

11. While thanking contributors to these funds, he reiterated his regret that the insufficiency of funding for participation had made it necessary to reduce the number of countries funded at the present session. He noted that financial support had been offered to one delegate each from 81 countries and that 67 countries had taken advantage of this offer. He expressed the hope that adequate and timely contributions would be available to finance participation in the tenth session of the Committee.

12. With respect to the operating costs of the interim secretariat, the Executive Secretary drew attention to the detailed information provided in a table annexed to the note (Annex 1) and to the fact that additional contributions to the trust fund for the negotiating process were needed to maintain the current level of activity of the interim secretariat beyond 30 June 1994.

13. Statements were made by the representatives of 16 States. Those from developed countries provided information on their current and future contributions to one or both extrabudgetary funds, recognizing the need for timely contributions, as well as on their plans to provide bilateral support for staff positions in the interim secretariat. Some of these representatives were able to indicate significantly increased levels of contributions, taking account both of the need to maintain the widest possible participation in the Committee and of the growing demand by the Committee for services from the interim secretariat. One representative provided information concerning bilateral assistance to Pacific island developing countries, inter alia for participation in the work of the Committee. The representative of a developing country expressed the hope that it would be possible to fund two delegates per country in the future, given the need for delegations to cover two simultaneous meetings. Another representative of a developing country emphasized the importance of maintaining geographical balance in the provision of staff to the interim secretariat. On this latter point, which the Executive Secretary endorsed, the representative of a developed country indicated that it might be possible for his country to provide bilateral support for a staff position that could be filled by a national of a developing country.

2. Conclusions

14. The Committee took note of the information provided by the interim secretariat on its activities and on the state of the extrabudgetary funds. It expressed appreciation for the efforts of contributors to the two extrabudgetary funds, for the work of the interim secretariat and for the transparency of its report.

15. The Committee expressed concern that it had not been possible for the interim secretariat to maintain the usual level of funding for the participation of developing and other countries in the ninth session of the Committee. It hoped that adequate contributions to the special voluntary fund, well in advance of the tenth session, would allow the restoration of the usual funding arrangements. It noted the evolution of the secretariat's practice in managing these arrangements, including its priorities for the allocation of financial support for participation, which took account of the particular needs of countries that provide Officers to the Committee and its Working Groups (A/AC.237/54, paras. 39 - 41).

16. The Committee recognized that the tasks that it had assigned to the interim secretariat were stretching the secretariat's capacities and resources. It welcomed the important financial contributions announced during the session, which reflected growing awareness of the need for technical and analytical inputs by the interim secretariat to the process of communication and review of information under the Convention, as well as the needs of the Climex project.

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Addendum

MATTERS RELATING TO ARRANGEMENTS FOR THE FINANCIAL
MECHANISM AND FOR TECHNICAL AND FINANCIAL SUPPORT TO
DEVELOPING COUNTRY PARTIES

IMPLEMENTATION OF ARTICLE 11 (FINANCIAL MECHANISM) PARAS. 1-4

Conclusions of Working Group II

1. Proceedings

1. Working Group II considered sub-item 3 (a) (Implementation of Article 11 (Financial Mechanism) paras. 1-4) at its 1st to 14th meetings, from 7 to 17 February. It dealt with matters relating to the implementation of the provisions of Article 11 of the Convention, and had before it the following documents related to the sub-item:

(a) Note by the interim secretariat on the implementation of Article 11 (Financial Mechanism) paras.1-4 (A/AC.237/50);

(b) Note by the interim secretariat on approaches to the determination of agreed full incremental costs (A/AC.237/50/Add.1);

(c) Note by the interim secretariat on the outcome of the participants' meetings of the Global Environment Facility (GEF) (A/AC.237/50/Add.2).

2. At the 2nd meeting, on 7 February, the Administrator of the Global Environment Facility (GEF) made a statement and responded to questions raised by the representatives in the Working Group.

3. Statements were made under this sub-item by representatives of 42 states, including one speaking on behalf of the Group of 77 and China, one on behalf of the European Economic Community and its member States, and one speaking on behalf of countries with economies in transition.

4. At the 7th meeting, on 10 February, statements were made by the observers for two non-governmental organizations.

5. Having discussed proposals by the Co-Chairmen, Working Group II, at its 14th meeting, on 17 February, recommended for adoption by the Committee, draft conclusions on the sub-item.

2. Conclusions

6. On the recommendation of Working Group II, the Committee at its ___th meeting on ___ February, agreed upon the following conclusions on sub-item 3(a):

7. In the framework of the preparation for the first session of the Conference of the Parties, where arrangements to implement the provisions of Article 11, paragraphs 1-4 of the Convention, shall be made, the Committee held its discussions on matters relating to the implementation of Article 11.

8. The Committee decided to focus its work on the implementation of Article 11 (Financial Mechanism) and considered in particular, (a) policies, eligibility criteria and programme priorities, (b) modalities for the functioning of operational linkages between the Conference of the Parties and the operating entity or entities of the financial mechanism, and (c) approaches to the determination of agreed full incremental costs, and (d) institutional matters.

9. With regard to paragraphs 8-13 it is understood that the work of the Committee is a continuing process and that the Committee will return to them at the tenth session of the Committee in order to build on agreements reached.

10. The Committee reiterated its conclusion reached at the eighth session which states that "The Conference of the Parties, the supreme body of the Convention, pursuant to Article 7, will, pursuant to Article 11, decide on policies, eligibility criteria, and programme priorities related to the Convention for the financial mechanism, which shall function under the guidance of, and be accountable to, the COP. Such policies, programme priorities and eligibility criteria will be in conformity with the relevant provisions of Articles 4 and 11, keeping in mind Articles 2 (objective), 3 (principles) and 7 (COP)" (see document A/AC.237/41, paragraph 84(i)).

11. The Committee reiterated its conclusion reached at the eighth session that:

(a) "eligibility criteria will apply to countries and to activities and will be applied in accordance with Article 11.1, 11.2 and 11.3":

(b) "Regarding eligibility of countries, only countries that are Parties to the Convention would be eligible to receive funding upon entry into force of the Convention. In this context only developing country Parties would be eligible to receive funding through the financial mechanism, in accordance with Article 4.3" (see document A/AC.237/41, paragraph 84(ii));

and further agreed that:

(c) Regarding eligibility of activities,

(i) Those activities related to obligations under Article 12.1 to communicate information for which the "agreed full costs" are to be met, are eligible for funding; and

(ii) Measures covered by Article 4.1 are eligible for funding through the financial mechanism in accordance with Article 4.3. Such measures should be agreed between the developing country Party and the international entity or entities referred to in Article 11.1, in accordance with Article 4.3.

(iii) In addition to the above, such measures would be eligible for financial support under Article 11.5.

12. (a) The Committee reiterated its conclusion reached at the eighth session which states that "priority should be given to the funding of agreed full costs (or agreed full incremental costs as appropriate) incurred by developing country Parties in complying with their obligations under Article 12.1 and other relevant commitments under the Convention. In the initial period emphasis

should be placed on enabling activities undertaken by developing country Parties such as planning, endogenous capacity building including institutional strengthening, training, research and education, that will facilitate implementation, in accordance with the Convention, of effective response measures." (see document A/AC.237/41, paragraph 84(iii)).

(b) The Committee further requested the interim secretariat to gather information from Governments and relevant international agencies on specific near-term priorities and needs of developing countries indicated in paragraph (a) above, taking into account Articles 4.1 and 12.1 and to report to the next session of the Committee.

(c) Regarding communication of information activities referred to in Article 12.1, it was concluded that the process of their implementation in the context of Article 12.5 should be initiated. A first step in this regard would be the elaboration of the format and content of such communication and the identification of the needs of the developing country Parties with respect to capacity building activities needed to enable them fulfil their obligations under Article 12.1. In this connection, the Committee took note of the intention of the Group of 77 and China to convene a meeting of experts from developing countries on the occasion of the tenth session, and to inform the Committee of the results of that meeting at that session.

(d) The Committee decided to request that the secretariat prepare a document for the tenth session of the Committee summarizing the key elements of the format adopted for communication of information by Annex 1 Parties pursuant to Article 12.2. This document could be taken into account by the experts' meeting of the developing countries.

13. The Committee agreed that with respect to the following activities undertaken under Article 11:

(a) Within the framework of the financial mechanism:

(i) The entity or entities should in all funding decisions related to the financial mechanism take into account Articles 4.1, 4.7, 4.8, 4.9 and 4.10 of the Convention.

(ii) Projects funded through the financial mechanism should be country-driven and in conformity with, and supportive of, national development priorities of each country.

(iii) The operating entity or entities should ensure that with reference to activities involving transfer of

technology such technology is environmentally sound and adapted to suit local conditions.

(b) Outside the framework of the financial mechanism:

(i) Consistency should be sought and maintained between activities, including those related to funding, relevant to climate change undertaken outside the framework of the financial mechanism and the policies, programme priorities and eligibility criteria for activities as relevant, established by the COP. The issue of monitoring such consistency by the COP will be further considered at the tenth session by the Committee including reporting modalities.

(ii) The Secretariat is requested to prepare a report on this subject for the tenth session in order to assist the Committee in identifying ways and means to seek and maintain such consistency.

(c) With regard to the various issues of incremental costs, the Committee noted that they were complex and difficult and therefore further discussion on the subject was needed. Nevertheless with regard to the concept of agreed full incremental costs, the Committee concluded that its application should be flexible, pragmatic and on a case by case basis. Guidelines in this regard would be developed by the COP at a later stage on the basis of experience. The secretariat was requested to continue monitoring work carried out on this matter taking into account also views expressed by Governments and keep the Committee informed of progress achieved.

14. Annex 1 Parties undergoing the process of transition to a market economy not being eligible under the financial mechanism of the Convention will, pursuant to the Convention, be eligible for assistance measures outside the financial mechanism, in particular for those measures regarding the transfer of, or access to, environmentally sound technologies and know-how, in accordance with Article 4.5, and other measures to limit greenhouse gas emissions and increase their removal by sinks.

15. (a) On the possibility of designating additional operating entities for the financial mechanism, further study and consideration will be needed before any firm decision is made.

(b) The Committee concluded that a permanent and feasible system of monitoring the activities of regional and multilateral financial and other institutions relevant to climate change should be envisaged and in this regard the interim secretariat was requested to contact the appropriate institutions and present a report on their activities relevant to the ultimate objective of the Convention, including with respect to Article 4.1, to the Committee at its tenth session. On the basis of this report the Committee could further consider the issue of a permanent and feasible system for such monitoring at its tenth session.

(c) The Committee decided to defer to its tenth session the consideration of Article 11.3 (d) in conjunction with its chapeau.

16. (a) The Committee stressed the importance it attaches to the commitment of annex II Parties to assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation to those adverse effects. With regard to Article 4.4, the Committee recognised the need for more information and analysis on the meaning of adaptation (including preparation for and facilitation of adaptation) and on the particular measures which might be considered. It was concluded that such information and analysis would contribute to a better understanding of the range of issues and funding decisions under Article 11 associated with adaptation. The Committee asked

the Secretariat to seek further information from countries, international organizations and relevant groups and to produce a synthesis document for the Committee's consideration at its tenth session.

(b) It was also agreed that there was a need to explore all sources of possible assistance for adaptation activities under the Convention especially under Article 11.5. The Conference of the Parties should aim at influencing the coordination, targeting and effective use of the considerable resources available from sources other than the financial mechanism and bring them to bear on the broad objectives of the Convention.

17. Delegations may wish to provide in written form any proposals they may have on issues related to the financial mechanism for consideration by the Committee at its tenth session. The Secretariat will compile in a document such contributions received by 30 May 1994. This document will be issued in the original language only.

18. The Committee noted that the legal opinion of the United Nations Office of Legal Affairs, requested by the Committee at its eighth session (A/AC.237/41, paragraph 88), had concluded that it was "not feasible to determine in general which arrangements should be considered as appropriate between the COP and the hypothetical operating entity". Anticipating the successful outcome of negotiations on the GEF instrument, the Committee decided to request that the United Nations Office of Legal Affairs offer further advice on the options for such arrangements based on the final GEF instrument, in time for the Committee's discussion at its tenth session.

19. The Committee decided to give further consideration at its tenth session to (a) the implementation of Article 11 (Financial Mechanism), (b) adoption of additional policies, eligibility criteria and programme priorities related to the Convention, (c) determination of "agreed full incremental costs", (d) modalities for the functioning of operational linkages between the Conference of the Parties and the operating entity or entities of the financial mechanism as well as to (e) institutional matters, including if appropriate, the question of maintenance of the interim arrangements referred to in Article 21 paragraph 3.

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Addendum

VI. PROCEDURAL, INSTITUTIONAL AND LEGAL MATTERS

A. RULES OF PROCEDURE OF THE CONFERENCE OF THE PARTIES

1. Proceedings

1. At its sixth session, the Committee decided to allocate agenda item 4 (Procedural, institutional and legal matters) to Working Group II (A/AC.237/24, paras. 44 and 45).

2. As decided at its eighth session, an informal ad hoc and open-ended group of delegations constituting the "friends of the Co-Chairs of Working Group II" met during the ninth session (outside the normal working hours of the Committee) to review the draft rules of procedure in detail. The Group was co-ordinated by Mr. Patrick Szell (United Kingdom).

3. Working Group II considered sub-item 4(a) at its 14th meeting, on 17 February.

4. For its consideration of the sub-item, the Working Group had before it a note by the interim secretariat on the rules of procedure of the Conference of the Parties (A/AC.237/27/Rev.2). It also had before it a note by the Co-ordinator of the informal ad hoc and open-ended group which outlined the additions and amendments made by the Group to the draft rules of procedures contained in A/AC.237/27/Rev.2.

5. The Co-ordinator of the informal ad hoc group reported to the Working Group at its 14th meeting on the outcome of the informal group and described in detail the areas of convergence and divergence.

6. Statements were made by the representatives of four States, including one on behalf of the Group of 77 and China.

7. It was decided that the Co-Chairman of Working Group II would convey to the Chairman of the Committee the fact that the Working Group was unable to undertake a substantive discussion of document A/AC.237/WG.II/L.8, owing to time constraints. The Co-Chairman would request guidance from the Committee, through the Chairman, on how to proceed at the tenth session.